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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary**Application No.**

10/581,104

Applicant(s)

PATRY ET AL.

Examiner

DENNIS MYINT

Art Unit

2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-13 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-13 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-893)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date ____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 13, 2011, has been entered.
2. In the amendment filed on July 13, 2011, claims 1-13 were amended. Claims 1-13 are currently pending in this application. Claims 1, 11, 12, and 13 are independent claims. This is a non-final office action.

Response to Arguments

3. Applicant's arguments filed on 09/13/2011 have been fully considered but are not persuasive.

Applicant argued that *"however, Boateng does not suggest the positions of said new data elements being randomly defined by the device for processing information at each user request. Instead, the display positions of Boateng's electronic word game are fixed at certain locations on the display device. Although the numbers to be displayed in Boateng's electronic game may be a random selection, Boateng's display positions are fixed at the specific locations. Therefore, Boateng's display positions are not random"* (Applicant's argument, page 8 second paragraph). Applicant similarly argued that

"Boateng does not suggest the positions of said new data elements being randomly defined. Therefore, Boateng fails to cure the deficiencies of Jannink with respect to claim 1" (Applicant's argument, page 8 fifth paragraph).

Examiner respectfully disagrees all of the allegations as argued. Examiner, in his previous office action, gave detail explanation of claimed limitation and pointed out exact locations in the cited prior art. Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. See MPEP 2111 [R-1] Interpretation of Claims-Broadest Reasonable Interpretation.

During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).

In response it is pointed out that Boateng teaches the limitation **"the positions of new data elements being randomly defined by the device for processing information at each user's request"** (Boateng, Abstract, i.e., *"the game can be embodied as an electronic or computer game in which letters stored in memory are randomly presented upon user request and number position and left-right indication are also randomly presented upon user request"; Boateng, paragraph 0032, i.e., "A user actuates the respective keys to cause random selection of a number for display and the random selection of the left or right designation for display on the respective displays, as shown in FIG. 7").*

Applicant also argued that "*it would not have been obvious for a person having ordinary skill in the art to combine the features of Jannink and Boateng in order to arrive at the claimed invention*" (Applicant's argument, page 9 third paragraph).

In response, it is pointed out that it would have been obvious to a person of ordinary skill in the art to add the feature of randomly defining positions of data elements by a device at user's request, as taught by Boateng, to the device of Jannink so that the resultant device would randomly define positions of data elements by a device at each user's request. One would have been motivated to do so in order to allow users request data elements randomly and position said data elements randomly (Boateng, paragraph [0006]).

Applicant also argued that "*dependent claim 8 depends from allowable claim 1 and incorporates all of the respective features of claim 1, in addition to containing further distinguishing patentable features*" (Applicant's argument, page 10 seventh paragraph).

In response, it is pointed out that since claim 1 is not allowable over the combination of Jannink in view of Boateng, claim 8 is not allowable in view of respective prior art.

In view of the above, the examiner contends that all limitations as recited in the claims have been addressed in this Action. For the above reasons, Examiner believed that rejection of the last Office action was proper.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-7 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jannink (U.S. Patent Number 7268791) in view of Boateng (U.S. Patent Application Publication Number 2003/0020237).

As per claim 1, Jannink is directed to a device for processing information in a database comprising a processor configured to (Jannink, Figure 4, "412" and Jannink, col. 5 lines 32-39, i.e., *"In the system shown in FIG. 4, a user 405 of a computer 412*

containing a client browser 410 (as is well known and understood in the art) can send a request 415 via a distributed computer network (such as the Internet) to a web server 420"; Jannink, Figure 5, showing "database 550" and "Chart Server 510") and teaches the limitations:

"select data of the database according to selection criteria" (Jannink, Figure 3, i.e., "305 INFORMATION STRUCTURING PHASE"; Jannink, Figure 3, i.e., " Determine an item from the data set 320"; Jannink, col. 3 lines 49-51, i.e., " As a preparatory step in the information structuring phase, an item from the data set can be selected in step 320"; Jannink, Figure 5, i.e., "Database 550" and "query q (object) (if not in cache)"; Jannink, Jannink, col. 5 lines 32-39, i.e., "*In the system shown in FIG. 4, a user 405 of a computer 412 containing a client browser 410 (as is well known and understood in the art) can send a request 415 via a distributed computer network (such as the Internet) to a web server 420*"; Note that a user's "request" for a data item from a database is a "criterion" by which requested data is selected;),

"arrange selected data in a representation space provided for the attention of at least one user" (Jannink Figure 1 and 2; Jannink, Abstract, i.e., " A visualization of a set of related data items is accomplished by ranking a plurality of secondary data items with respect to their relationship to a principal data item"; Jannink, col. 3 lines 37-43, i.e., "FIG. 3 is a flow chart depicting a method for visualization of large interrelated data sets, according to the present invention. According to this method, the visualization of data sets containing a large number of items from data sets having two properties, namely that subsets of items in a data set relate to each other, and the relationships

between items have a value associated with each other, is enabled”), **the representation space comprising a plurality of positions which can receive data elements that are representative of the selected data** (Jannink Figure 1 and 2; Jannink, Col. 3 lines 5-6, i.e., *“In an embodiment, the affinity chart 129 may consist of a single list of textual or **graphical items** and associated links. The principal item 131, related items 132 and 142, first sequence elements 135, 145, and second sequence elements 136, 146 may all appear as items of the list”*),

“pre-define at least one related representation area within the representation space, formed by activated positions” (Jannink, col. 2, lines 64-66, i.e., *“Adjacent to the principal item 131 and at one end of a selected strings of related items 132 and 142 are respective first sequence element 135 and 145”*; Jannink, Jannink, col. 3 lines 37-43, i.e., *“FIG. 3 is a flow chart depicting a method for visualization of large interrelated data sets, according to the present invention. According to this method, the visualization of data sets containing a large number of items from data sets having two properties namely that subsets of items in a data set relate to each other, and the relationships between items have a value associated with each other, is enabled”*),

“specify at least one data bootstrapping element for each of the related areas” (Jannink, col. 3 lines 49-51, i.e., *“As a preparatory step in the information structuring phase, an item from the data set can be selected in step 320”*),

“position the data bootstrapping element at a bootstrapping position in the related representation area corresponding to the data bootstrapping element” (

Jannink, col. 4 lines 1-3, i.e., "*related to principal node 131*"; ; Note that principal node 131 is the bootstrapping element which is positioned first),

"successively determine new data elements from at least a data element already positioned in the related representation area" (Jannink, col. 3 lines 49-60, i.e., "*As a preparatory step in the information structuring phase, an item from the data set can be selected in step 320. Local rankings of the relationships between items can be established in step 324, by ranking for each selected item j the items i that relate to that item j , and then ranking all items k to which item j relates, thereby ranking the affinity for each item j to item sets i and k* "), **"in accordance with at least one proximity order relation based on contents of the selected data"** (Jannink, col. 3 lines 58-62, i.e., "*To determine how an item relates to another item, the strength of the relationship between the items can be computed using any combination of objective or subjective criteria, or a combination of both*"; Jannink, col. 4 lines 4-16, i.e., " To determine both item set i and item set k in FIG. 1, both objective and subjective criteria related to The Beatles could be used. Objective criteria used to determine the relationships between various musical bands could include, for example, the era in which the band played (e.g. 1960s), and the genre of the music (e.g. rock, British Invasion, pop). Subjective criteria could include, for example, how well liked the band is based on feedback from users, and how often two bands appear together in radio station play lists"),

"and automatically and successively position at least a part of the new data elements in the related representation area, at positions neighboring the

positions occupied by the data elements already positioned" (Jannink, col. 3 lines 49-60, i.e., *"As a preparatory step in the information structuring phase, an item from the data set can be selected in step 320. Local rankings of the relationships between items can be established in step 324, by ranking for each selected item j the items i that relate to that item j , and then ranking all items k to which item j relates, thereby ranking the affinity for each item j to item sets i and k "*; Jannink, col. 3 lines 58-62, i.e., *"To determine how an item relates to another item, the strength of the relationship between the items can be computed using any combination of objective or subjective criteria, or a combination of both"*; Jannink, col. 4 lines 4-16, i.e., *"To determine both item set i and item set k in FIG. 1, both objective and subjective criteria related to The Beatles could be used. Objective criteria used to determine the relationships between various musical bands could include, for example, the era in which the band played (e.g. 1960s), and the genre of the music (e.g. rock, British Invasion, pop). Subjective criteria could include, for example, how well liked the band is based on feedback from users, and how often two bands appear together in radio station play lists"; Note that "the era" and "the genre of the music" are at least a part of new data elements which relate to the data element(s) already positioned;), **"if these positions are not already occupied by data elements already positioned"** (Jannink, col. 4 lines 42-45, i.e., *"Next a visualization can be generated, by presenting results separately for each item in a predetermined data set and adjusting the presentation to avoid information overlap and overload"*; Jannink, col. 4 lines 62-63, i.e. *"In step 354, the related item can be individually spaced**

on the affinity chart by its rank, with each item being placed in a non-overlapping position by allowing sufficient vertical and horizontal displacement in step 358").

Jannink does not explicitly teach the limitation: "the positioning of new data elements being randomly defined by the device for processing information at each user's request".

Boateng teaches:

"the positions of new data elements being randomly defined by the device for processing information at each user's request" (Boateng, Abstract, i.e., *"the game can be embodied as an electronic or computer game in which letters stored in memory are randomly presented upon user request and number position and left-right indication are also randomly presented upon user request"; Boateng, paragraph 0032, i.e., "A user actuates the respective keys to cause random selection of a number for display and the random selection of the left or right designation for display on the respective displays, as shown in FIG. 7")*

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to add the feature of randomly defining positions of data elements by a device at user's request, as taught by Boateng, to the device of Jannink so that the resultant device would randomly define positions of data elements by a device each user's request. One would have been motivated to do so in order to allow users request data elements randomly and position said data elements randomly (Boateng, paragraph [0006]).

Claim 2 is rejected under the same rationale as claim 1. As per claim 2, Jannink in view of Boateng teaches the limitations:

“form neighborhood cards centered on the data elements already positioned” (Jannink, col. 3 lines 49-60; Jannink, col. 3 lines 58-62 ;), **“each of the neighborhood cards centered on one of the data elements already positioned giving data elements neighboring the data element in accordance with the proximity order relation and”** (Jannink, col. 3 lines 58-62; Jannink, col. 4 lines 4-16), and **“to select the new elements from the neighboring elements and to place them in the related area corresponding to the element already positioned at positions neighboring the element”** (Jannink, col. 3 lines 49-60; Jannink, col. 3 lines 58-62; Jannink, col. 4 lines 4-16).

Claim 3 is rejected under the same rationale as claim 1. As per claim 3, Jannink in view of Boateng teaches the limitations:

“place the neighboring data elements at positions relative to the element in the related representative area, which correspond to the positions relative to the data element of the neighboring data elements in the neighborhood card” (Jannink, col. 3 lines 49-60; Jannink, col. 3 lines 58-62; Jannink, col. 4 lines 4-16).

Claim 4 is rejected under the same rational as claim 1. As per claim 4, Jannink in view of Boateng teaches the limitation:

"supply the neighborhood cards to representation means for the attention of the user" (Jannink Figure 1 and 2; Jannink, Abstract, i.e., *"A visualization of a set of related data items is accomplished by ranking a plurality of secondary data items with respect to their relationship to a principal data item"*).

Claim 5 is rejected under the same rationale as claim 1. As per claim 5, Jannink in view of Boateng teaches the limitation:

"exclude from the new data elements, the data elements already positioned, so as to represent, at the most once, each of the data elements in the representation space" (Jannink, col. 4 lines 42-45, i.e., *"Next a visualization can be generated, by presenting results separately for each item in a predetermined data set and adjusting the presentation to avoid information overlap and overload"*; Jannink, col. 4 lines 62-63, i.e. *"In step 354, the related item can be individually spaced on the affinity chart by its rank, with each item being placed in a non-overlapping position by allowing sufficient vertical and horizontal displacement in step 358"*).

Claim 6 is rejected under the same rationale as claim 1. As per claim 6, Jannink in view of Boateng teaches the limitation:

"determine and position the new data elements as and when there are selections by the user, in the representation space, of positions neighboring the positions occupied by the data elements already positioned" (Jannink, col. 5 lines 15-19, i.e., *"Once the selected item and its associated affinity curves from the data set*

have been hyperlinked, navigation by the user can occur by the user clicking to connect to a selected related affinity chart”; Jannink, col. 7 lines 18-20, i.e. “Each search link 714 can permit a user to produce a page that has search results or additional information about the selected item”).

Claim 7 is rejected under the same rationale as claim 1. As per claim 7, Jannink in view of Boateng teaches the limitation:

“use, for the proximity order relation, at least one of the relations based on: a number of identical terms in the contents, a number of similar terms for a predefined part of the contents, a difference in dates in the contents, a number of similar graphic patterns in the contents, and a number of similar sound patents in the contents” (Jannink, col. 3 lines 58-62, i.e., *“To determine how an item relates to another item, the strength of the relationship between the items can be computed using any combination of objective or subjective criteria, or a combination of both”; Jannink, col. 4 lines 4-16, i.e., “ To determine both item set i and item set k in FIG. 1, both objective and subjective criteria related to The Beatles could be used. Objective criteria used to determine the relationships between various musical bands could include, for example, the era in which the band played (e.g. 1960s), and the genre of the music (e.g. rock, British Invasion, pop). Subjective criteria could include, for example, how well liked the band is based on feedback from users, and how often two bands appear together in radio station play lists”).*

Claim 9 is rejected under the same rationale as claim 1. As per claim 9, Jannink in view of Boateng teaches the limitation:

"allow a user to construct the related representation area" (Jannink, col. 3 lines 49-60, i.e., *"As a preparatory step in the information structuring phase, an item from the data set can be selected in step 320. Local rankings of the relationships between items can be established in step 324, by ranking for each selected item j the items i that relate to that item j , and then ranking all items k to which item j relates, thereby ranking the affinity for each item j to item sets i and k "*).

Claim 10 is rejected under the same rationale as claim 1. As per claim 10, Jannink in view of Boateng teaches the limitation:

"specify a first data bootstrapping element in one of the related representation areas, then to specify the other bootstrapping elements from the first bootstrapping data element by means of the proximity order relation" (Jannink, col. 2, lines 64-66, i.e., *"Adjacent to the principal item 131 and at one end of a selected strings of related items 132 and 142 are respective first sequence element 135 and 145"*; Jannink, col. 3 lines 58-62, i.e., *"To determine how an item relates to another item, the strength of the relationship between the items can be computed using any combination of objective or subjective criteria, or a combination of both"*; Jannink, col. 4 lines 4-16, i.e., *"To determine both item set i and item set k in FIG. 1, both objective and subjective criteria related to The Beatles could be used. Objective criteria used to determine the relationships between various musical bands could include, for example,*

the era in which the band played (e.g. 1960s), and the genre of the music (e.g. rock, British Invasion, pop). Subjective criteria could include, for example, how well liked the band is based on feedback from users, and how often two bands appear together in radio station play lists").

Claim 11 is rejected under the same rationale as claim 1.

Claim 12 is rejected on the same basis as claim 1.

Claim 13 is rejected on the same basis as claim 12.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jannink in view of Boateng and further in view of Spratt (U.S. Patent Application Publication Number 20020040326).

As per claim 8, Jannink in view of Boateng does not explicitly teach the limitation: "(to specify bootstrapping data elements) according to a user profile". Note that Jannink teaches specifying bootstrapping elements.

Spratt teaches specifying next item to download based on a user profile (Spratt, paragraph 0047, i.e., "*It is also possible to effect selection off-line--for example, the content server can decide what content items it will next download to the mobile device, when the latter is next cradled, on the basis of a stored copy of the relevant user preference profile, notwithstanding that the profile may not be fully up to date*").

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to add the feature of specifying an data item based on user profile, as taught by Spratt, to the device of Jannink in view of Boateng so that the resultant device would specify bootstrapping elements according to a user profile. One would have been motivated to do so in order to "personalize download selections according to a user's perceived tastes" (Spratt, paragraph 0001).

Contact Information

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DENNIS MYINT whose telephone number is (571)272-5629. The examiner can normally be reached on 8:30AM-5:30PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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